

AN ACT  
RELATING TO THE ADMINISTRATION OF THE ELECTION LAWS BY THE  
SECRETARY OF STATE AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 49.4, subsection 1, Code 2009, is amended to read as follows:

1. Where a civil township, or the portion of a civil township outside the corporate limits of any city of over two thousand population contained ~~therein~~ within the civil township, is divided into two or more election precincts, the precincts shall be so drawn that their total populations shall be reasonably equal on the basis of data available from the most recent federal decennial census, except where the division is necessary to comply with section 49.3, subsection 3.

Sec. 2. Section 49.8, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. If city population data certified by the United States bureau of the census following the federal decennial census is revised and the revision is certified by the United States bureau of the census, such revisions may be used to revise precinct and ward boundaries in accordance with the requirements of sections 49.3 and 49.5. The board of supervisors shall determine whether such revised population data affects the population equality of supervisor districts. If necessary, the temporary county redistricting commission shall be reconvened, notwithstanding section 331.210A,

subsection 4, and supervisor districts shall be revised in accordance with the requirements of section 331.210A, subsection 2.

Sec. 3. Section 49.13, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. In appointing the election board to serve for a nonpartisan election, the commissioner may give preference to the persons who are willing to serve without pay identified pursuant to section 49.15, subsection 2, paragraph "b", by the city council or the school board.

Sec. 4. Section 49.14, subsections 1 and 2, Code 2009, are amended to read as follows:

1. The commissioner may appoint substitute precinct election officials as alternates for election board members. The responsibilities and duties of a precinct election official, ~~other than the chairperson,~~ present at the time the polling place was opened on the day of an election may be assumed at any later time that day by a substitute appointed as an alternate. The substitute shall serve either for the balance of that election day or for any shorter period of time the commissioner may designate. At partisan elections, a substitute precinct election official assuming the duties of a precinct election official shall be a member of the same political party as the precinct election official whose duties are being assumed, unless substitution of a precinct election official not of the same political party results in no more than a simple majority of the total number of precinct election officials serving in that precinct being members of the same political party.

2. Substitute precinct election officials shall be appointed and shall serve in accordance with sections 49.12, 49.13, 49.15, and 49.16, and shall receive compensation as provided by sections 49.19, 49.20, and 49.125. Upon arriving at the polling place and prior to performing any official duty, a substitute precinct election official shall take the oath required by section 49.75.

Sec. 5. Section 49.15, subsection 2, paragraph b, Code 2009, is amended to read as follows:

b. The commissioner may also place on the election board panel names of persons whom either the city council of a city ~~of three thousand five hundred or less population~~ or a school board has advised the commissioner at least thirty days before each primary election are willing to serve without pay at elections conducted for that school district or city, as the case may be, during the tenure of the election board panel on which these names are included.

Sec. 6. Section 49.16, subsection 4, Code 2009, is amended to read as follows:

4. In appointing the election board for any election conducted for a city ~~of three thousand five hundred or less population~~, or any a school district, the commissioner may give preference to any persons who are willing to serve without pay at those elections.

Sec. 7. Section 49.20, Code 2009, is amended to read as follows:

**49.20 Compensation of members.**

The members of election boards shall be deemed temporary state employees who are compensated by the county in which they serve, and shall receive compensation at a rate established by the board of supervisors, which shall be not less than the minimum wage established in [section 91D.1, subsection 1](#), paragraph "b", while engaged in the discharge of their duties and shall be reimbursed for actual and necessary travel expense at a rate determined by the board of supervisors, except that persons who have advised the commissioner prior to their appointment to the election board that they are willing to serve without pay at elections conducted for any a school district or a city ~~of three thousand five hundred or less population~~, shall receive no compensation for service at those elections. Compensation shall be paid to members of election boards only after the vote has been canvassed and it has been determined in

the course of the canvass that the election record certificate has been properly executed by the election board.

Sec. 8. Section 49.72, Code 2009, is amended to read as follows:

**49.72 Absentee voters designated before polling place opened.**

The commissioner shall deliver to each precinct election board not less than one hour before the time at which the polls are to open for any election the list of all registered voters of that precinct who have been given or sent an absentee ballot for that election, and the election board shall immediately designate those registered voters who are so listed and therefore not entitled to vote in person at the polls, except as required by provided in section 53.19, subsection 3.

Sec. 9. Section 49.77, subsection 4, paragraph c, Code Supplement 2009, is amended to read as follows:

c. A person who has been sent an absentee ballot by mail but for any reason has not received it shall be permitted to cast a ballot in person pursuant to section 53.19 and ~~in the manner prescribed by section 49.81.~~

Sec. 10. Section 49.81, subsection 1, Code 2009, is amended to read as follows:

1. A prospective voter who is prohibited under section 48A.8, subsection 4, section 49.77, subsection 4, or section 49.80, or section 53.19, subsection 3, from voting except under this section shall be notified by the appropriate precinct election official that the voter may cast a provisional ballot. ~~If a booth meeting the requirement of section 49.25 is not available at that polling place, the precinct election officials shall make alternative arrangements to insure the voter the opportunity to vote in secret.~~ The voter shall mark the ballot, ~~fold it or insert it in a secrecy envelope as required by section 49.84,~~ and immediately seal it in an envelope of the type prescribed by subsection 4. The voter shall deliver the sealed envelope to a precinct election official who shall deposit it in an envelope marked "provisional ballots". The ballot shall be considered as having been cast in the special precinct established by section 53.20 for purposes of the postelection canvass.

Sec. 11. Section 49.104, subsection 3, Code 2009, is amended to read as follows:

3. Any number of persons not exceeding three at a time from each of such political parties, appointed and accredited in the same manner as ~~above~~ prescribed in subsection 2 for challenging

committees, and any number of persons not exceeding three at a time appointed as observers under subsection 5, to witness the counting of ballots. Subject to the restrictions of [section 51.11](#), the witnesses and observers may observe the counting of ballots by a counting board during the hours the polls are open in any precinct for which double election boards have been appointed.

Sec. 12. Section 51.11, Code 2009, is amended to read as follows:

**51.11 Presence of persons.**

No person shall be admitted into the space or room where such ballots are being counted until the polls are closed, except the counting board, and the witnesses appointed and accredited under [section 49.104, subsection 3](#), and the observers appointed under section 49.104, subsection 5. It shall be unlawful for any witness or observer to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time before the polls are closed.

Sec. 13. Section 53.18, subsections 2 and 3, Code Supplement 2009, are amended to read as follows:

2. If the commissioner receives the return envelope containing the completed absentee ballot by 5:00 p.m. on the Saturday before the election for general and primary elections and by 5:00 p.m. on the Friday before the election for all other elections, the commissioner shall open the envelope to review the affidavit for any deficiencies completeness. If the affidavit ~~contains a deficiency that would cause the ballot to be rejected~~ is incomplete, the commissioner shall, within twenty-four hours of the time the envelope was received, notify the voter of that fact and that the voter may ~~correct the deficiency~~ complete the affidavit in person at the office of the commissioner by 5:00 p.m. on the day before the election, vote a replacement ballot in the manner and within the time period provided in subsection 3, or appear at the voter's precinct polling place on election day and cast a ballot in accordance with section 53.19, subsection 3.

3. If the affidavit envelope ~~is open when received by the commissioner, or has been opened and resealed, or if the ballot is not enclosed in the affidavit envelope~~ contains a defect that would cause the absentee ballot to be rejected by the absentee and special voters precinct board, the commissioner shall immediately notify the voter of that fact and that the voter's absentee ballot shall not be counted unless the voter

~~applies for a replacement ballot requests and returns the a~~  
replacement ballot in the time permitted under [section 53.17,](#)  
[subsection 2](#). ~~The replacement ballot application shall be the~~  
~~same as is required for an application under~~ [section 53.2](#). ~~If~~  
~~the information on the replacement ballot application matches~~  
~~the information on the original application, the voter shall be~~  
~~allowed to complete a replacement absentee ballot. The voter~~  
~~may request a replacement ballot in person, in writing, or~~  
~~over the telephone.~~ The same serial number that was assigned  
to the records of the original absentee ballot application  
shall be used on the envelope and records of the replacement  
ballot. The affidavit envelope containing the completed  
replacement ballot shall be marked "Replacement ballot". The  
affidavit envelope containing the original ballot shall be  
marked "Defective ballot" "Defective" and the replacement  
ballot and ~~replacement ballot application~~ shall be attached to  
the ~~original application and~~ affidavit envelope containing the  
original ballot and shall be stored in a secure place until  
they are delivered to the absentee and special voters precinct  
board, notwithstanding [sections 53.26](#) and [53.27](#).

Sec. 14. Section 53.19, Code 2009, is amended to read as  
follows:

**53.19 Listing absentee ballots.**

1. The commissioner shall maintain a list of the absentee  
ballots provided to registered voters, the serial number  
appearing on the unsealed envelope, the date the application  
for the absentee ballot was received, and the date the absentee  
ballot was sent to the registered voter requesting the absentee  
ballot.

2. The commissioner shall provide each precinct election  
board with a list of all registered voters from that precinct  
who have received an absentee ballot. The precinct officials  
shall immediately designate on the election register those  
registered voters who have received an absentee ballot and are  
not entitled to vote in person at the polls, except as provided  
in subsection 3.

3. a. ~~However, any~~ A registered voter who has received an  
absentee ballot and not returned it may surrender the absentee  
ballot to the precinct officials and vote in person at the  
polls. The precinct officials shall mark the uncast absentee  
ballot "void" and return it to the commissioner.

b. ~~Any~~ A registered voter who has ~~been sent~~ requested an  
absentee ballot by mail but for any reason has not received

it or who has not brought the ballot to the polls may appear at the voter's precinct polling place on election day and, after the precinct election officials confirm the commissioner has not received the voter's absentee ballot, the voter shall be permitted to vote in person at the polls. If the precinct election officials are unable to confirm whether the commissioner has received the voter's absentee ballot, the voter shall cast a ballot in accordance with [section 49.81](#).

c. Any A registered voter who has been notified by the commissioner pursuant to [section 53.18](#) of the need to correct a deficiency on complete the affidavit or to apply for and vote a replacement absentee ballot and who has not corrected the deficiency completed the affidavit or voted a replacement absentee ballot may appear at the voter's precinct polling place on election day and, after the precinct election officials confirm the voter has not completed the affidavit or voted a replacement ballot, the voter shall be permitted to vote in person at the polls. If the precinct election officials are unable to confirm whether the voter has completed the affidavit or voted a replacement ballot, the voter shall cast a ballot in accordance with [section 49.81](#).

Sec. 15. Section 260C.15, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. *a.* Objections to the legal sufficiency of a nomination petition or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question.

*b.* The objection must be filed with the secretary of the board as least thirty-five days before the day of the election at which members of the board are elected. When objections are filed, notice shall immediately be given to the candidate affected, addressed to the candidate's place of residence as given on the candidate's affidavit, stating that objections have been made to the legal sufficiency of the petition or to the eligibility of the candidate, and also stating the time and place the objections will be considered. The board secretary shall also attempt to notify the candidate by telephone if the candidate provided a telephone number on the candidate's affidavit.

*c.* Objections shall be considered not later than two working days following the receipt of the objections by the president of the board of directors, the secretary of the board, and one additional director of the board chosen by ballot. If

objections have been filed to the nominations of either of the directors, that director shall not pass on the objection. The director's place shall be filled by a member of the board of directors against whom no objection exists. The replacement shall be chosen by ballot.

Sec. 16. REPEAL. Section 49.19, Code Supplement 2009, is repealed.



Sec. 17. EFFECTIVE UPON ENACTMENT. The sections of this Act amending sections 49.13, 49.14, 49.15, 49.16, and 49.20, and repealing section 49.19, being deemed of immediate importance, take effect upon enactment.

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JOHN P. KIBBIE  
President of the Senate

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PATRICK J. MURPHY  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2196, Eighty-third General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved \_\_\_\_\_, 2010

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CHESTER J. CULVER  
Governor